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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

SHERRY ANDREWS, Personal Representative for the Estate of MISTY FORD; A.F, beneficiary of the estate and individually; N.F, beneficiary of the estate and individually; and ETHEL FORD, individually,)
Plaintiffs,)
vs.)
THE UNITED STATES OF AMERICA; Correctional Officer CLIFFORD MATHERLY, an individual; Correctional Officer CLARICE MATHERLY, an individual; KATHERINE WHIPPLE, M.D., an individual; and DOES 1-10;)
Defendants.)

NO. CV-07-361-FVS

**STIPULATED
PROTECTIVE ORDER RE:
CONFIDENTIAL PERSONAL &
PRIVACY ACT INFORMATION**

Based on the stipulation of the parties by and through their respective counsel, the following Protective Order will apply to, but not necessarily limited to, all Defendant personnel, supervisor, and investigative files:

STIPULATED PROTECTIVE ORDER - 1

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2 1. This Stipulated Protective Order ("Protective Order") shall be govern
3 the treatment and handling of all personnel documents which are hereby designated
4 as confidential, including, but not limited to, the personnel, supervisor and
5 investigative files of the Bureau of Indian Affairs, Department of Interior, and
6 Department of Health and Human Services, as they relate to the allegations
7 contained in Plaintiffs' Complaint.

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9 2. Defendant United States and the individually named Defendant
10 employees may designate additional documents as "confidential" and thus subject
11 those records to the terms of this Protective Order by fixing a notation to such
12 documents, materials or information, or by other appropriate written notice to
13 plaintiff's attorney. Defendants may designate "**CONFIDENTIAL: SUBJECT**
14 **TO PROTECTIVE ORDER**" the above referenced personnel and supervisor files
15 and any other personnel documents, materials or information that they believe
contain confidential information.

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17 3. Testimony taken in deposition in this case similarly may be designated
18 as confidential and made subject to the terms of this Order at the time of the record.

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20 4. Either party may move the court for determination of confidentiality if
21 the parties are unable to resolve a dispute regarding defendants' determination of
22 confidentiality. No disclosure shall be made of any information designated as
23 confidential except as provided herein until such time as the matter is resolved by
the court.

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25 5. Documents, materials, or information designated confidential pursuant
26 to this Protective Order shall not be disclosed or disseminated by plaintiff or
27 plaintiff's attorneys William C. Maxey and Mark Harris, or to any other person or
entity, with the following exception:

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29 a. Use of such confidential documents, materials, or information
30 for trial preparation by paralegal or secretarial staff of plaintiff's attorney is
31 allowed by this Protective Order, subject to all conditions of this Protective
32 Order which govern plaintiff's attorney's use of such confidential
33 information;

b. Documents, materials or information designated by defendant as confidential may be provided to expert witnesses, or consultants by plaintiff's attorney provided such expert witness or consultants, before being allowed to see any confidential documents, materials, or information, in writing acknowledge receipt of a copy of this Protective Order and agree to be bound by the terms of this Protective Order. The prohibition of this paragraph shall apply in all circumstances, including, but not limited to, deposition in this case.

6. All summaries and exhibits prepared from confidential information shall be stamped "**CONFIDENTIAL: SUBJECT TO PROTECTIVE ORDER**" by counsel causing them to be prepared.

7. All persons having access to confidential information made available pursuant to this agreement shall agree not to make any use of said confidential information except in connection with the above-captioned litigation and shall further agree not to deliver or transfer said confidential information to any person not previously authorized by the terms herein.

8. Counsel disclosing confidential information to any person or entity shall be responsible for limiting distribution of the confidential information to those persons who both (1) have a need to know the information and (2) are authorized to receive the information under this Protective Order. Counsel shall be prepared to account for the disposition and use of the information under this Protective Order.

9. All copies of confidential information disclosed under this agreement shall be subject to the same restrictions as imposed on the original information.

10. All documents, materials, and information designated as confidential and disclosed to any person pursuant to this Protective Order shall remain in the possession only of plaintiff's attorney or the experts or consultants to whom they are disclosed as provided by the Protective Order. Plaintiff may not retain any documents, materials, or information designated as confidential pursuant to this Protective Order after the conclusion of this litigation or the trial of this case, whichever comes first.

1 11. Upon completion of this litigation, all documents and materials
2 designated confidential and all copies thereof, shall be returned to Defendants by
3 Plaintiff's attorneys.

4 12. Documents, materials, and information designated as confidential
5 pursuant to this Order may be disclosed in regular proceedings of this Court,
6 subject to approval by defendant's attorneys or by the following method in absence
7 of approvals: If the documents, materials, or information designated confidential
8 are made exhibits in this case or are incorporated into any pleadings or documents
9 filed on behalf of plaintiff with the Court, such exhibits or pleadings shall be (a)
10 bound separately and (b) placed in a sealed envelope or other appropriately sealed
11 contained on which shall be endorsed:

12 This envelope is sealed pursuant to the Stipulated Protective Order,
13 dated _____, 2008, and contained confidential
14 information filed in these proceedings. It is not to be opened or the
15 contents thereof displayed or revealed except to the court and persons
16 authorized by the court.

17 If the designated Confidential Information appears in any transcription filed with
18 the Court, such transcription shall be (a) bound separately, and (b) placed in a
19 sealed envelope or other appropriately sealed container which bears the foregoing
20 endorsement.

21 13. No confidential documents, materials, or information shall be used at
22 trial, except as provided by further order of the Court. Any party may apply to this
23 Court for additional protection regarding any discovery in this case.

24 14. No modification or amendment of this Protective Order is permitted
25 except by a writing signed by counsel for the parties and approved by the Court.
26 The parties hereto agree that it is unreasonable to rely on any oral modification or
27 amendment of this agreement.

28 15. The failure to insist upon full compliance with any of the terms of the
29 Protective Order in any instance shall not be deemed to be a waiver of the right to
30 insist upon full compliance with those terms thereafter.

31 STIPULATED PROTECTIVE ORDER - 4

1 16. By executing this Protective Order, the parties and their respective
2 counsel certify that prior to the disclosure of any confidential information as
3 provided herein, the proposed recipient of the information will be first provided a
4 copy of this Protective Order and required to execute a verification in the form
5 attached hereto as Exhibit A.

6 17. A conformed copy of the Protective Order shall be provided to
7 plaintiff, who shall sign and date it, acknowledging that she has read and
8 understood the terms and agrees to be bound by the terms of this Protective Order.
9 The signed copy shall be provided to defendant's attorney.

10 11 DONE ~~IN~~ ~~OREN COURT~~ this 30th day of September, 2008.

12 13 s/ Fred Van Sickle
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The Honorable Fred Van Sickle
16 17 United States District Court Judge
18 19 Eastern District of Washington

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STIPULATED PROTECTIVE ORDER - 5